

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In Re: AUTOMOTIVE PARTS
ANTITRUST LITIGATION

Master File No. 12-md-02311
Honorable Marianne O. Battani

In Re: All Parts

THIS RELATES TO:
All Actions

**ORDER OF SPECIAL MASTER
GRANTING IN PART AND DENYING IN PART CERTAIN SERVING PARTIES'
MOTION TO COMPEL PRODUCTION IN RESPONSE TO REQUEST NO. 31 IN THE
SERVING PARTIES' OEM SUBPOENA**

This matter is currently before the undersigned, Special Master, upon Certain Serving Parties' Motion to Compel from Non-Party Original Equipment Manufacturers (ECF Nos. 1187 and 1188 in 2:12-md-02311) dated January 19, 2016.

Defendants and OEMs filed Oppositions to this Motion (Case No. 2:12-md-02311, ECF 1216; Case No. 2:12-md-02311, ECF 1227, pages 35-37). Certain Serving Parties filed a Reply Brief in Support of their Motion (Case No. 2:12-md-02311, ECF 1254). Certain OEMs filed additional oppositions to the Motion (Case No. 2:12-md-02311, ECF Nos. 1519, 1528, 1534, 1536). Certain Serving Parties filed a supplemental statement (Case No. 2:12-md-02311, ECF 1550).

The undersigned, having considered the various arguments raised hereby rules as follows:

1. The Motion implicates the settlement privilege recognized by the Sixth Circuit in *Goodyear Tire & Rubber Co.*, 332 F.3d 976 (6th Cir. 2003). The settlement privilege is an exception to the demand for every person's evidence and must be narrowly construed.
2. Documents evidencing discussions or exchanged between OEMs¹ and automotive parts suppliers at initial meetings concerning the existence of the automotive parts conspiracy and its scope, duration, nature, and extent, as well as descriptions of parts involved and of the wrongful acts of the conspirators are not privileged, and will be produced by the OEMs.
3. Settlement agreements between OEMs and automotive parts suppliers will be produced by the OEMs. This information is not privileged.
4. The above information will be produced within 30 days of when this order is entered, unless it is appealed. If the order is appealed, the above information will be produced within 30 days of any ruling on the appeal that upholds this decision, in whole or in part.
5. Documents analyzing damages caused by the conspiracy, created for the purpose of reaching a settlement, that were exchanged between OEMs and automotive parts suppliers, are settlement communications protected from production by the Sixth Circuit settlement privilege and will not be produced.
6. This order does not require the production of any information responsive to Request No. 31 that concerns only Wire Harness Systems. If a responsive document contains

¹OEMs are the "SSEs" as defined in footnote 3 of Certain Parties' Motion to Compel, (ECF Nos. 1187 and 1188 in 2:12-md-02311).

information about Wire Harness Systems and other products that document will not be withheld or redacted.

This order may be appealed to Judge Marianne O. Battani by filing an Objection within 14 days. Oppositions must be filed within 14 days of service of the Objection. Replies must be filed within 7 days.

IT IS SO ORDERED.

Dated: January 25, 2017

/s/ Gene J. Esshaki

Special Master Gene J. Esshaki

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on January 25, 2017.

s/ Kay Doaks

Case Manager